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House Bill 5294 (Substitute S-1 as reported)  
House Bill 5295 (Substitute S-1 as reported)  
Sponsor: Representative Shelley Taub  
House Committee: Regulatory Reform  
Senate Committee: Commerce and Labor

## **CONTENT**

House Bill 5294 (S-1) would amend Chapter 47 (Forfeiture or Seizure of Certain Property) of the Revised Judicature Act to allow the seizure and forfeiture of the proceeds of a violation of the "Public Auction Licensing Act". The bill is tie-barred to House Bill 5295.

House Bill 5295 (S-1) would amend Public Act 224 of 1955, which regulates sales at public auction, to do all of the following:

- Extend the Act's licensure requirement to auctions held within cities that did not have an ordinance as restrictive as the Act (in addition to townships and villages).
- Require a license for the sale at public auction of any merchandise, rather than any "new merchandise".
- Exclude from regulation under the Act 1) a regularly scheduled auction sale of motor vehicles held at a permanent location and conducted by a bonded auctioneer; 2) and an auction sale by a charitable nonprofit organization exempt from Federal income tax.
- Provide that a license issued under the Act would not be valid in any city or village that had enacted an ordinance for the licensing of auctions that was at least as restrictive as the Act.
- Require a licensee to post a copy of the license application, including the inventory filed with it, in a conspicuous place where the sale was conducted and on the front door of those premises in a manner that was clearly visible from the street.
- Require a published advertisement or announcement of a sale to show the applicant's license number, date of expiration, and State sales tax number.
- Increase the maximum fine for a violation of the Act from \$100 to \$5,000.
- Specify that a person could bring an action to obtain a declaratory judgment regarding a violation of the Act or to enjoin a person from violating the Act.

The bill also would rename the Act the "Public Auction Licensing Act".

MCL 600.4701 (H.B. 5294)  
446.51 et al. (H.B. 5295)

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bills would have no impact on State revenue or expenditures. Some local units could experience a minimal increase in revenue from the requirement that auctions within city limits be licensed under the Act, and that auctions within villages be licensed through the village, rather than the township. Some townships could experience a minimal reduction in revenue from the latter change. Local units experiencing revenue increases also could experience a minimal increase in expenditures because House Bill 5295 (H-1) would require

those units to perform licensing duties, while local units receiving less revenue could experience minimally decreased expenditures.

By increasing the misdemeanor fine for violating the Act, the bills potentially would increase penal fine revenue constitutionally dedicated to public libraries. To the extent that the bills would allow individuals to bring certain actions regardless of action by the Attorney General or prosecuting attorney, it could increase local court costs.

This analysis is preliminary and will be revised as new information becomes available.

Date Completed: 12-8-04

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.